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CH
SUBJECT: TRAFFICKING IN PERSONS (TIP) REPORT FOR
MONGOLIA

REFS: (A) State 003836, (B) 05 Ulaanbaatar 127

Sensitive But Unclassified -- please handle
accordingly.

Summary and Introduction

1. (SBU) Growing awareness of trafficking as a domestic and international issue -- as well as Mongolia's first appearance in the TIP report -- spurred Mongolia to take significant new steps against trafficking in the last year. In November 2005, the government adopted a National Action Plan against trafficking and the sexual exploitation of women and children. The government has begun to take the first steps under this action plan and, acknowledging weaknesses, has prioritized improvements in the training of officials, in the legal environment, and in aid to victims. The government conducted its first anti-trafficking publicity effort, and MFA began to distribute anti-trafficking training materials to consular officials in destination countries. In January 2006, the government won its first conviction under an anti-trafficking provision adopted in 2002, a conviction which officials and activists hope will set the stage for more vigorous and successful prosecutions. Domestically, there continues to be a child prostitution problem, and the government has allowed some companies to bring in North Korean contract laborers whose labor may not be fully voluntary. Mongolia continued to be a country of origin for sex trafficking, largely to Macau, China and South Korea, although victims also were found in Turkey and Israel. Information about international trafficking continues to be sketchy and anecdotal. End summary and introduction.

Overview

2. (SBU)

(A) Mongolia has a limited trafficking in persons problem, with some domestic trafficking cases and some cases of Mongolians trafficked overseas for sex.

According to police statistics, there were 177 underaged prostitutes discovered in 2005 (down from 215 in 2004). In April 2004, UNICEF persuaded the government and representatives of the travel and tourism industry to establish a voluntary code of conduct to prevent the sexual exploitation of children. Government and NGO officials suspect there may be some adult victims among those working in Mongolia's sex industry. Scheduled anti-trafficking training of police and inspectors of entertainment establishments may lead to the discovery of such cases.

There is no information indicating a domestic trafficking for labor problem, with one exception. Beginning in 2004, North Korean laborers have been employed in Mongolia, primarily in the construction and service industries. According to information received from the Ministry of Foreign Affairs, these laborers are employed under contract terms that require the laborers return to North Korea at the end of the contract, although temporary, limited extensions are permitted. The Government of Mongolia has made clear that, per agreement with North Korea, it does not intend for these contract laborers to remain long-term in Mongolia.

The working and living conditions of these laborers raise the concern that they are subject to coercion, and are not free to leave their employment; however, no

actual instances of workers either wishing to leave or actually leaving (going AWOL) their jobs are known. The DPRK workers are monitored closely by "minders" from their government, and many are believed to be subject to DPRK government pressure because of family members left behind in North Korea. The workers reportedly do not routinely receive direct and full salary payments.

While many Mongolians working illegally in other countries are exploited in some fashion, the only known trafficking victims outside Mongolia are women forced to work as prostitutes. Neither the government nor the NGO community has accurate estimates of the extent of such trafficking. The results of limited surveys by NGOs reinforce anecdotal evidence about trafficking destinations. Young women are believed to be trafficked typically to Macao, China, and South Korea. The ability of Mongolians to travel to Macao and China without visas helps explain why these are leading destinations. Estimates of Mongolian sex workers in Macao vary from 200-300 women. Some women wittingly go to Macao to work as prostitutes, and it is unknown how many sex workers are trafficking victims. In 2005, seven trafficked women were returned from Turkey, and another two trafficked women were found in Israel (these latter women have remained in Israel as witnesses in a criminal case against the traffickers). Government and NGO officials believe that the known trafficking cases are the tip of the iceberg, and that more cases would be reported if victims did not fear embarrassment and an insufficiently sympathetic reception by Mongolian law enforcement officials.

(B) Traffickers target young women through newspaper advertisements. The jobless rate among urban youth is high and working abroad is attractive. Many of those working overseas do so without authorization in the destination country. This extensive illegal migration provides a context in which trafficking in persons occurs; a few women who arrange to work abroad illegally actually end up as trafficking victims. Some regulations about labor recruitment for overseas jobs exist, but are not always enforced. The Ministry of Justice and Home Affairs currently prohibits companies recruiting for labor abroad from facilitating visas. The Ministry attempted to prevent recruiters from advertising vacancies for workers in restaurants and bars, but recruiters began to advertise for babysitters instead. Anecdotal evidence also indicates that a few women who enter into immigration-oriented marriages of convenience with South Korean men also fall victim to traffickers after arriving in that country.

(C) While efforts against trafficking have increased, and there is enhanced public awareness, Mongolia's government has very limited financial resources but many difficult social problems. Resources are typically allocated to sectors considered to be more pressing. Corruption is believed to be endemic in Mongolia, including in law enforcement. No cases of corrupt ties between traffickers and officials are known, but such links in individual cases are possible.

(D) The government of Mongolia is committed to combating trafficking in persons and has tried to improve its ability to do so. In November, an order by the Prime Minister promulgated Mongolia's National Action Plan on trafficking, and against the sexual exploitation of women and children. Mongolian government representatives also are taking an active part in anti-trafficking working groups along with NGOs. This latter process has been organized by The Asia Foundation using ESF money.

Prevention

13. (SBU)

1A. The government acknowledges that trafficking is a problem.

1B. The Ministry of Social Welfare and Labor takes the lead on trafficking. Police, prosecutors, judges, and the Ministry of Justice and Home Affairs are also involved.

1C. There was a government-run anti-trafficking campaign in late 2005. More campaigns are planned. Using ESF funding, an NGO has distributed trafficking information leaflets at the airport, train station and bus stations. A broader publicity effort is scheduled this year. Potential trafficking victims comprise the target audience of these efforts.

1D. Since 2000, the police have conducted a program among arrested child prostitutes to encourage their re-entry into school or training. Since 2003, the government has conducted a program among at risk groups of girls to prevent prostitution. The government supports a variety of other job creation, social welfare, and educational programs; however, none of these are identified as efforts against trafficking.

(E. Missing in ref a)

1F. There is good cooperation between the government and NGOs on trafficking.

1G. Mongolia does not now screen for potential trafficking victims at exit points; it might be difficult to identify many trafficking victims at the exit point, since victims often intend to go abroad for illegal employment and only discover they are trafficking victims after arriving at their destinations overseas. The government plans to train border officials in 2006 to sensitize them to trafficking issues. Pamphlets placed by NGOs at train stations and the Ulaanbaatar airport attempt to alert potential victims, and provide information about contact points in common destination countries. In 2005, the Ministry of Foreign Affairs began to distribute information on trafficking to consular officials serving overseas.

1H. A National Action Plan against trafficking was approved in November 2005. The lead agency is the Ministry of Social Welfare and Labor, but the task force includes all other relevant government agencies, including law enforcement. Government agencies also participate in anti-trafficking working groups with NGOs, organized by The Asia Foundation in late 2005 under an ESF grant. Anti-corruption legislation is being considered by the parliament, and may pass in the next session. If enacted, the proposed new law would establish an independent anti-corruption entity.

(I. Missing in ref a)

1J. There is a National Action Plan. NGOs were fully consulted in its drafting. The plan has been widely disseminated among relevant organizations.

INVESTIGATION AND PROSECUTION

14. (SBU) There have not been changes to the law in the last year.

1A. The Criminal Code addresses trafficking in persons in Article 113. The provision covers labor trafficking and sex trafficking, and, like other provisions in the Criminal Code, covers both domestic cases and offenses committed out of the country by Mongolians. The terminology in the law, which refers to the "sale and purchase" of human beings, is the standard terminology used to translate "trafficking in persons" into Mongolian. One reason that prosecutions under this law have been limited is that trafficking situations often may not have a clear "seller" or "buyer," but turn more on fraud and coercion. Human rights advocates have argued that the law does cover such situations. In early 2006, a judge agreed, convicting a Mongolian

woman who had trafficked several victims to Macau for prostitution and sentencing her to ten years imprisonment. The judge and the prosecutors in this case had received anti-trafficking training from the National Human Rights Commission. The Ministry of Justice and Home Affairs and the National Human Rights Commission have worked on legal changes to more clearly spell out trafficking offenses. While anti-trafficking advocates ultimately would prefer new legislation, they have urged that the Supreme Court issue an interpretation of Article 113 which would make the broader reading of the law standard for judges and prosecutors. NGOs are hopeful the Supreme Court will issue such an interpretation in 2006.

Other relevant sections of the Criminal Code include Article 115 (involving a child in criminal activities), Article 121 (forced labor of a child), Article 122 (sexual intercourse with a person under the age of 16), and Article 124 (organizing prostitution).

1B. The penalty for trafficking under Article 113 is three years. Enhanced penalties of 5-10 years are applicable if the trafficking is for the purposes of prostitution or involves persons under the age of 18. If the trafficking is done by an organized group, or involves grave harm, the penalty is 10-15 years imprisonment.

The penalty under Article 115 (involving a child in criminal activities) is 1-3 months for those involving a child in prostitution, or 3-5 years if this is done by violence or threat or in the event of a previous conviction. The penalty under Article 121 (forced labor of a child) is four years imprisonment. The penalty under Article 122 (sexual intercourse with a person under the age of 16) is three years imprisonment. Penalties under Article 124 for inducing others to engage in prostitution by physical violence or deception are incarceration for 3 to 6 months, while organizers of prostitution are punished by imprisonment for up to five years.

1C. The standard penalty for rape is a prison term of up to five years. Enhanced penalties of 5-10 years

apply for rape of a minor or one which inflicts serious injury. Rape of children under 14 years of age, or which leads to the death of the victim, may be 15-25 years or the death penalty.

Convictions for sex trafficking under Article 113 would lead to equal or higher penalties than a conviction for rape. In practice, many trafficking-related prosecutions are under Article 124 (organization of prostitution), under which penalties may be less severe than for rape. Reasons for choosing to prosecute under Article 124 include incomplete understanding among some officials of Article 113, as well as the relative ease of proving that a person was involved in organizing prostitution as opposed to proving that they induced a victim, through deception or coercion, into prostitution in another country.

1D. The Criminal Code adopted in 2002 dropped prostitution as an offense. However, prostitution remains illegal under the 1998 Law Against Pornography, which states that prostitutes may be detained for 14-30 days and have their earnings confiscated. Organizers of prostitution remain subject to penalties under the Criminal Code, as noted in answers (A) and (B) above. It is not an offense to be a client of a prostitute; however, it is an offense to knowingly have sex with someone under the age of 16. Article 113 (trafficking in persons) of the Criminal Code provides for enhanced penalties of persons who traffic for prostitution.

1E. The Embassy is awaiting an official written response to our request for information, but has obtained information orally from the police. In the past year the government successfully prosecuted one case under Article 113, leading to a prison sentence for one Mongolian woman of 10 years. The case involved seventeen women trafficked to Macau, six of

whom testified. Another case was prosecuted under Article 124 (organizing prostitution), leading to a five year sentence for a Chinese citizen. Both these court actions involved cases in which investigations began in 2004. Nine new cases of possible trafficking were registered by police in 2005. Of these, police and/or prosecutors decided only one case had sufficiently strong evidence to enable prosecution. That case is pending in court. Of these nine cases registered, five involved victims in Macau, two in Beijing, and two in China near the Mongolian border. Six of the suspected traffickers were Mongolian, two Chinese, and one was South Korean. Police comment that prosecutions are hampered by a variety of factors, including the current anti-trafficking law, requirements by judges for witnesses from destination countries to corroborate the offense, and poor cooperation by Chinese and Macau officials.

1F. Information about trafficking, and trafficking patterns, remains anecdotal. However, most anecdotes involve Mongolians posing as legitimate employment agencies to recruit victims. Reports say that once overseas, local organized criminal groups keep women trapped in sex jobs. While some individual corrupt officials may be complicit in trafficking cases, we have no concrete evidence of this.

1G. The government does investigate trafficking complaints, but often chooses to prosecute organizers for organizing prostitution, rather than trafficking per se. This is both because of incomplete understanding of the relatively new trafficking offense, as well as the relative ease of proving the prostitution charges. Most of the prosecution case is comprised of victim testimony about the situation they faced in the destination country. Local law constrains undercover operations, and conducting such operations internationally (as would need to be done in trafficking cases) would be beyond both the resources and the experience of Mongolian law enforcement.

1H. The National Commission for Human Rights has provided training for judges and prosecutors. NGOs provide informal training for police and prosecutors. One of the first initiatives under the National Action Plan adopted in November is expanded anti-trafficking training, including among police, entertainment establishment inspectors, and border officials, as well as prosecutors and judges.

1I. Mongolia has limited cooperation with law enforcement officials in other countries on trafficking cases. Officials are satisfied with cooperation with authorities in South Korea, and with Turkey and Israel (while not frequent destinations, trafficking cases in Turkey and Israel involving Mongolians occurred in 2005). Officials would like to improve cooperation with Chinese authorities, since Macau and China are leading destinations for trafficking victims. In March 2006, Mongolia sent its Consul General in Beijing, who is a former Chief of Police, to Macau to build contacts there. Mongolia does not have a consulate in either Hong Kong or Macau, but hopes that this trip and periodic follow up visits will boost cooperation on trafficking cases. While prosecution of traffickers is one focus of such cooperation, Mongolia hopes that enhanced cooperation with other countries will lead to better identification and repatriation of Mongolian trafficking victims.

1J. Mongolia has extradition agreements with a number of other countries, but we have no information that extradition has requested in any trafficking case. Mongolia is prohibited by its constitution from extraditing its nationals; however, Mongolian law does provide for prosecution of offenses its nationals commit while out of the country.

1K. There is no evidence of government involvement in trafficking.

1L. There have been no cases of prosecutions for officials for involvement in trafficking.

1M. The government has identified sex tourism as a potential problem. With the help of UNICEF, the government and representatives of the tourism industry developed a voluntary code of conduct to prevent the sexual exploitation of children in the tourism industry. The embassy is not aware of any cases of prosecution or expulsion of foreign pedophiles.

1N. International instruments:

--- Mongolia ratified ILO Convention 182 on the Elimination of the Worst Forms of Child Labor in February 2001.

-- Mongolia ratified ILO Convention 29 on March 15, 2005.

-- Mongolia ratified ILO Convention 105 on March 15, 2005.

-- Mongolia ratified the Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography in June 2003.

-- Mongolia has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. According to officials, the Transnational Organized Crime convention and the three optional protocols are now in the interministerial clearance process, including a review of what legal changes Mongolia will need to make to comply with obligations under the agreements. Officials hope to obtain Cabinet endorsement in the latter part of 2006, and to submit the convention and protocols to parliament for ratification in the last quarter of the year. The January 31, 2004 Joint Statement signed in Ulaanbaatar between (then) Deputy Secretary of State Armitage and (then) Vice Minister of

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Foreign Affairs Batbold, reconfirmed by July 2004 and November 2005 Presidential Joint Statements, highlights our mutual commitment to combat trafficking in persons. As part of its commitment, Mongolia has stated it will ratify the anti-trafficking (aka Palermo) protocol.

PROTECTION AND ASSISTANCE TO VICTIMS -----

15. (SBU)

1A. Assistance is still extremely limited. In answer 3.D. above, assistance to child prostitutes and at risk groups is noted. Officials have identified improved assistance to victims as a priority for the first phase of the National Action Plan, and have formed working groups to this end. Note: Improving assistance to victims is a key element of the February 2006 proposal by The Asia Foundation for ESF money to expand TAF's small existing anti-trafficking program. End note.

1B. See above answer.

1C. Except for child prostitutes, there is no existing screening process. The National Action Plan against trafficking includes a parallel focus on ending sexual exploitation of women and children. As part of the effort, anti-trafficking training will soon be conducted among police and inspectors of entertainment establishments, and is aimed at enabling these officials to distinguish trafficking victims, who would then be referred to the expanded assistance to victims which is planned. Government and NGO officials involved in the action plan also would like to improve the experience of victims with the law enforcement system. They note that some victims who are witnesses in criminal cases against traffickers are currently discouraged by the unsympathetic handling by many law enforcement officials.

1D. Victims rights are generally respected; however, victims often do not know their rights or are reluctant to pursue them. Identified trafficking victims are not prosecuted as criminals.

1E. Legal action by victims against traffickers is possible but difficult. Victims often do not know their rights or are reluctant to pursue them. NGOs are trying to encourage victims to pursue such suits, and

to provide them pro bono legal assistance.

1F. Protections for, and assistance to, victims and witnesses are extremely limited, which discourages them from coming forward. Furthermore, social stigma inhibits victims from telling their stories. The government has identified improvements in these services as a priority in the first phase of the National Action Plan. Police place girls detained as suspected prostitutes with parents or in shelters.

1G. In March 2006, the government will begin to provide training to police, border and other officials on how to recognize trafficking cases. Such capacity building is one of the major priorities of the first two years of the National Action Plan. The Ministry of Foreign Affairs has provided anti-trafficking training materials to consular officials abroad since mid-2005, and is encouraging those in destination countries to establish relationships with NGOs and local law enforcement agencies.

1H. The government does not currently provide medical aid, shelter or financial help to Mongolian nationals who are victims of trafficking. The government has identified improvements in victim assistance as a priority.

1I. The Center for Human Rights and Development, the National Center Against Violence, the Gender Center for Sustainable Development, and the CEDAW Watch Office are the organizations most involved with trafficking victims. With ESF funds, The Asia Foundation has increasingly played a role in coordinating the anti-trafficking efforts of Mongolian NGOs dealing with trafficking.

Suggested Text of Country Narrative

16. (SBU) Embassy suggests the following adaptation of the country narrative published in 2005; this adaptation assumes that the general structure of the narratives is identical to 2005.

Begin text.

Mongolia is a source country for women trafficked for the purposes of sexual exploitation; it also faces a problem of children trafficked internally for the purpose of commercial sexual exploitation. In 2005, the government documented almost 150 Mongolian children exploited as prostitutes. The circumstances of up to 200 North Korean contract laborers in Mongolia raise concern that they are not free to leave their employment if they desire, and therefore that their labor may be involuntary. Mongolian women are usually trafficked to China, Macau, and South Korea for commercial sexual exploitation. In 2005, women were also trafficked to Turkey and Israel.

The Government of Mongolia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Mongolian Government has acknowledged that trafficking is a problem and has tried to improve its ability to address it. In November 2005, the government adopted a National Action Plan against trafficking and the sexual exploitation of women and children. As priorities for the initial phase of the action plan, the government has identified improvements in anti-trafficking training of officials, anti-trafficking laws, and assistance to victims. The government lacks the resources to combat trafficking effectively on its own, but receives some assistance from international donors and NGOs. Government action should concentrate on adopting a strong and comprehensive anti-trafficking law, arresting and

prosecuting traffickers, and providing victim assistance and protection measures.

Prosecution

The Mongolian Government's law enforcement efforts against trafficking were modest during the reporting period. The government brought five trafficking-related cases to court in 2005, and in four cases failed to win convictions. However, officials and activists hope that the January 2006 conviction of a Mongolian for trafficking, the first such provision under an anti-trafficking provision adopted in 2002, will set a precedent facilitating additional convictions. Authorities have not developed the capacity to compile full information on trafficking-related arrests, prosecutions, and convictions. Mongolia's criminal code and criminal procedure code contain provisions against trafficking and prostitution. Traffickers may be imprisoned for up to 15 years, organizers of prostitution may be imprisoned for up to five years, and prostitutes may be detained up to 30 days. The government is currently reviewing the anti-trafficking provisions of the criminal code in an effort to strengthen the law and make it easier to prosecute traffickers.

Protection

The Mongolian Government did not provide protection and direct assistance to trafficking victims during the reporting period, largely due to resource constraints. Some

foreign and domestic NGOs provided limited support for victims.

Prevention

The Mongolian Government recognized that trafficking is a problem. The government conducted a modest anti-trafficking campaign and at least one NGO did so as well. The government has continued to work with travel industry representatives and UNICEF to implement a voluntary code of conduct to prevent the sexual exploitation of children in the travel and tourism industry.

End text.

EMBASSY POINT OF CONTACT

17. (U) Political Officer Patrick J. Freeman is the contact for trafficking issues; phone number 976-11-329-095; fax number 976-11-320-776; e-mail to freemanpj@state.gov. Time required to prepare the report: 40 hours by FS-2 (not including time required after submission of this draft); 2 hours of review by FS-1.

SLUTZ